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SHELBY COUNTY'S SHAME



STORY OF
BIG CREEK LYNCHING
AND
TRIAL.

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SHELBY COUNTY'S SHAME

The Story of the Bloody Work of Three Mobs in
Less than Three Years.

"We have sown to the wind and are now reaping the
whirlwind."

—JUDGE J. M. GREER.

"Tell the Truth."

—GROVER CLEVELAND.

On the night of March the eighth, 1892, a mob of eight men took from the Shelby County jail, located in almost the heart of the City of Memphis, and shot to death these three negroes:

Tom Moss.

Calvin McDowell.

Will Stewart.

The crime for which these negroes had been arrested and incarcerated on March the sixth, 1892, was attempt to murder.

On the night of July twenty-second, 1893, a mob of a thousand or more men and boys, took from the Shelby County jail, hanged and shot to death and then burned the body to a cinder, a negro by the name of

Lee Walker.

The crime for which this negro had been arrested and for which he suffered a swift and awful death was rape.

On the night of August thirty-first, 1894, a mob of men shot to death six manacled negroes in Big Creek bottom, while they were in charge of an officer who had arrested them at Kerrville, and were bringing them to Memphis in a wagon. These negroes were:

Dan Hawkins.

Graham White.

Ed. Hall.

John Hayes.

Warner Williams.

Bob Haynes.

The crime with which these six were charged was barn-burning

This is the bloody story of two and a half years. Ten human beings butchered while in the custody of officers of the law; four of them taken out of a jail that is the perfection of jail architecture and almost as impregnable to assault as a bastille, with but slight resistance on the part of brave and loyal officers.

This record stands unmatched in the annals of Tennessee, and it is an unparalleled stigma upon the honor of the Volunteer State and the proud boast of her brave sons of their loyalty to law and obedience to the mandates of the courts and their inherited chivalric manhood. There is no picture on the canvas of this State so dark and ensanguined as this one, nor is there one upon which the law-loving and the worthy sons of Tennessee can look with such abhorrence as this one calls forth.

An Interjected Preface.

To set in more enduring form than the newspaper accounts of these lynchings can possibly be, is the purpose of this pamphlet. It is to preserve the painful memory of these butcheries—that this form of record is adopted with the patriotic hope that there may result from this abiding revelation of these lawless deeds a higher and nobler form of citizenship and a manlier defense of the fair name of this proud Commonwealth and of law, justice and peace and prosperity. This is the work of a Southerner; of one who fought beneath the Stars and Bars of the Confederate States and who loves with a love passing expression the Old South, her matchless history, her peerless manhood and womanhood, her splendid achievements on field and forum, her traditions, her manners and her customs. For this work, for the sentiments it contains, for the criticisms within these covers, there is no apology.

THE STORIES IN DETAIL.

In that section of Memphis known as "the Curve," at the corner of Mississippi and Walker avenues, there were two low and disreputable dives operated under the outwardly respectable guise of grocery stores. One of these dens was "run" by a white man by the name of W. R. Barrett, the other by a mulatto by the name of Calvin McDowell. Between these two men there had sprung up bitter hatred for each other and their quarrels had become a disgrace and a standing menace to the peace of the neighborhood. Both places were the resort of roughs, toughs, dangerous gamblers and drunkards who made that locality a blot on common decency and a cess-pool of outrageous immoralities. These alleged stores were the legitimate fruit, the logical and natural sequence of that damnable curse—the unlicensed, unbridled and irresponsible "corner grocery," where villainous whisky is sold to villainous creatures of both sexes and from whose door there pours a stream of poison, crime and moral degradation and death through all the city. That stream still flows!

The feud between the Caucasian, Barrett, and the semi-African, McDowell, grew apace. Barrett had been sent to the workhouse by the criminal court judge, for a season and had he been kept there it is probable that this story would never have been written. The respectable people in that neighborhood grew alarmed at the growing lawlessness and predictions of trouble, bloodshed and murder were freely made. So uneasy, in fact, did these good citizens become that they determined to take preventive steps, if possible, to avert the bursting of the brewing storm and to clean their neighborhood of the pestiferous and dissolute

gang of loafers and "crap" gamblers. But to what branch of the law could they appeal for help with assurance of relief? The police force of the city was either powerless or criminally indifferent; the law officers of the State were as the municipal officials and so lawlessness ran rampant and besotting crime and boastful criminals held unchecked carnival at the "Curve." It was "a pocket edition of hell," an epitome of "Dark-est London." The officers had been warned that trouble of a serious character was likely to break forth at any moment. Deputy Sheriff Perkins one day received a note from an attache of the Evening Scimitar that stated the negroes at the "Curve" were holding secret meetings and plotting and planning an outbreak of some kind. The officer visited McDowell's place but could discover no sign of trouble. He was convinced and still maintains that the fears of the writer of that note were groundless. The whole trouble lay between Barrett and McDowell.

The then occupant of the bench of the Criminal Court of Shelby county was Judge J. J. DuBose. He had issued a bench warrant for the arrest of Will Stewart, one of the men who "hung out" at McDowell's grocery. This was on March 6, 1892. That night Deputy Sheriffs Perkins, Pat McGuire, Charley Cole, Bob Barnard, W. S. Richardson, Will App, Webber Harold and Clarence Moore, armed to the teeth, went to McDowell's store to arrest Stewart. The officers anticipated trouble and took no chances. When they arrived at the store a demand was made for Stewart. There were several negroes present and all rushed to a rear room. The deputies followed and when they got in the room they faced leveled guns in the hands of desperate negroes. Then the firing began on the officers, the ring-leader of the negroes being Isaiah, alias "Shang," Johnson. Deputy Cole was badly wounded; in fact, it was thought he mortally wounded; Deputy Bob Harold was also wounded as was Avery Yerger. Then followed the arrest of Will Stewart, Calvin McDowell, Tom Moss and "Shang" Johnson. They were taken to the county jail and locked up. On the way to the jail "Shang" Johnson told Deputy Perkins that he would tell all about the plots of the gang and for that reason he begged not to be put in the same cell or apartment of the jail with the other three prisoners as they would kill him. The officer put Johnson in the woman's department and that saved this negro from the mob.

On the night of the eighth of March—so shows the record of the Criminal Court—but it was in the early hours of the ninth day, a mob, or rather a squad, of not more than eight men called at the jail. The jailer was Lewis Williams, the night watchman was Tom O'Donnell. It was after midnight. There was no sound in all the city. Within the thick walls and steel cells of the jail sleep had fallen on all the inmates

save two men—O'Donnell and an ex-deputy sheriff who had been indicted for a miserable little crime. These two men were seated in the lobby of the jail conversing, when the bell rang and before its tintinnabulations had ceased a voice was heard asking for the night watchman.

"We have caught another of the 'Curve' rioters and want to put him in jail," said the voice.

This is O'Donnell's story.

"I went to the gate to admit the voice and the men with it," continues this very veracious (?) watchman. "I saw a man with a black face, who I thought at first was the prisoner. Then, I saw, maybe, six other men with masks on their faces. I reached for my gun in my hip pocket but the men covered me with their guns and said, 'No, you don't.' They crowded into the yard then rushed into the jail and demanded the keys to the cells. I told them I did not have the keys. They searched my pockets but did not find them. Two of the men stood guard over me while the others went on a hunt for the keys. They found them on a table in the office under a newspaper."

A story that hasn't the shadow of plausibility about it, taken in connection with what followed. The squad left this brave night watchman and went on a search through the jail for the men they wanted. Could this search have been made so noiselessly that it would not arouse the jailer, Williams, who was sleeping in the jail? That seems impossible. Was there any outcry or attempt to give alarm on the part of O'Donnell? None whatever. He simply sank exhausted with an overload of quiet submission, into his chair, and meekly held his peace. Not far from him was Williams, but he never went to his superior officer's room to tell him of the visit and demand of these assassins until they had gotten their victims and murdered them a mile away from the jail!

The sheriff of Shelby county at that time was A. J. McLendon. Where was he on that night? Down in Mississippi he says. Did he know or suspect that this raid would be made on the jail? He says he did not. Was there any attempt ever made to ferret out the perpetrators of this assault on the law and the butchery of three men in the keeping of the law, locked in a jail from which escape is impossible?

None whatever!

These three victims of the gory savagery of a few men were not charged with a crime for which death is the penalty. They had not been tried even before that unique and singularly endowed tribunal known as a justice of the peace court. They were merely "suspects" and innocent in the eyes of the law until proven guilty. The place of their execution was in an old field a mile north of the jail. The manner of their execution was peculiarly horrible, they having been shot so many times as to

give wretched and revolting evidence of the absolute and Apache-like fiendishness of their executioners.

The Judge of the Criminal Court at the time of this butchery was J. J. DuBose. What effort did he make to bring to punishment these lynchers?

Not one. Calmly, as though no great crime had been committed within a little distance of the supposedly sacred tribunal over which he presided, he kept the even tenor of his way, giving no official recognition of the deed, and no evidence to the world that his hand was holding the power that, properly used, is a defense to the humblest citizen against the vicious and cruel hand of the murderer, the mob or the despoiler of the fireside. The indifference thus shown by the man who was honored with a position and clothed with an authority that is majestic in its reach and grasp, boded no good to society. It was pregnant with rapine, anarchy and all the unleashed furies of hell. But though this judge forgot what the great Burke said in his speech in the impeachment of Warren Hastings that—

“There is but one law for all: namely, that law which governs all law, the law of our Creator, the law of humanity, justice, equity; the law of Nature and of nations,”

There swiftly came to him a realization of the truth of these words from Ben Jonson's “Cataline”:

“The gods
Grow angry with your patience: 'tis their care,
And must be yours, that guilty men escape not.
As crimes do grow, justice should rouse itself,”

For the outraged honor of the State of Tennessee arraigned this Judge before the bar of judgment and after a fair and impartial trial stripped him of his judicial robes and said to the world that he was unworthy to sit in judgment upon one of her tribunals of law and justice. Charges of all sorts and degrees had been preferred against the complacent Judge, piling up against him like Pelion on Ossa and when the verdict of the Senate of the State Legislature was rendered it made declaration that the man who would wear the ermine of a Tennessee judge must wear it as stainless as the unsullied robe of the vestal virgin.

But what of the other officers of the Criminal Court, Attorney General George B. Peters and Sheriff A. J. McLendon? Simply this: Confronted by the indifference of the Judge they could do nothing in hunting down the butchers of these three negroes. Did they try? It is not so recorded. Was there a political pressure, the menacing threat of a secret, but all-powerful clan, standing across their path that gave pause and halt and flight to their initial steps towards apprehending the

criminals? Did the edict of certain death to their future political and official aspirations if they persisted in uncovering this midnight crime hang over them like the sword of Damocles? They are brave men; morally and physically both are courageous and it can hardly be believed that any form of threat or intimidation would deter them from doing their duty and keeping inviolate their sacred oaths. Why, then, did they not pursue the game and run it to cover? The real answer cannot here be given. Let this simple statement stand as an explanation, unsatisfactory as it may seem: They were baffled at every turn; they listened to the voice of a public sentiment that was at once foolish, hurtful and criminal in its logical sequence.

The night after the "riot" at the "Curve" the respectable citizens of that neighborhood, regardless of age, color or previous condition of servitude, held an indignation meeting and wound up by passing a series of red hot resolutions in which the delectable Barrett and his dive were metaphorically roasted, as was also the wretched official policy of the city which gave birth and fostering care to such breeding pools of vice and degradation and trouble and infamy. Upon Barrett this meeting laid the responsibility for the bloodshed of the night previous. But the man with a political pull is a power!

LIKE THE FIENDS AT CAWNPORE.

For sixteen months the Demon slept, but on the night of July 23rd, 1893, he aroused himself and once more broke forth in awful fury. On the night before, Lee Walker, "a half-demented negro," so denominated at a public meeting in the Merchants' Exchange by United States District Attorney Taylor, had been put in the Shelby County jail by Sheriff McLendon. Walker had made an assault, for a hellish purpose, on Miss Mollie McCadden, near Bond's Station, a few miles from Memphis. Of his guilt there was no doubt. He was a veritable fiend in this dastardly line, having more than one unfortunate victim of his lust. On the night of July 23, Sheriff McLendon, knowing that this prisoner's life was in peril from the fury of an outraged public, gathered to his support in the jail a force of twenty or more deputies, having assured the trembling devil that he would protect him from any mob. As early as 8 o'clock on that summer evening an ugly and threatening crowd of men began massing about the jail. Quickly the crowd increased in numbers and without the least concealment made the sheriff acquainted with their purpose. They wanted Walker and intended to have him peaceably, if possible, forcibly, if necessary. The courage of the mob was fed and inspired by copious draughts of fiery liquor, many of the most vociferous being under the influence of the courage-producer. Sheriff McLendon suavely ex-

postulated with the beseigers, but his honeyed words might as well have been addressed to the silent Sphinx couched on the sands of Egypt. No measures other than pacific were used to stay this flood of fury, and abashed and ashamed the Law crept out of sight and the State of Tennessee retreated without the firing of a gun before the fury of this Demon of the French Revolution. The gate to the jail was broken down and the rabble, wild with their bloodless victory, poured into the big building. Sheriff McLendon was knocked down by a chair in the hands of one of the mob, and the deputies, deprived of their leader, quietly and gracefully abandoned the field. The mob, now swelled to at least a thousand, surged in and about the jail, howling like savages and licking their chops like hungry Numidian lions. Walker's cell was found and to break down the door was but the work of a few seconds. The poor devil within was snatched from the recesses fighting for his life. He was swiftly carried out of the building, every particle of clothing was torn from his body, his throat was cut, and hurrying him away he was hanged to a telegraph pole only two blocks from the jail. For twenty minutes the black and bloody form swung in the midnight air, a hideous silhouette against the light of the stars in the blue dome above this ghastly picture. Then the body was cut down and, drenched in coal oil, it was burned to a crisp. Not satisfied with this ghoulish and ghastly work, twenty men, undisguised, dragged the charred trunk to the very front door of the court house and left it there, a hideous memento of their contempt of Law; a sickening and polluting mockery of the Blind Goddess whose shrine was in that Temple.

The newspapers of Memphis denounced that night's savagery and Sheriff McLendon's seeming cowardice in no soft or exculpatory terms. These wise and brave sentinels on the watch-tower well knew the harm that would result to their beloved city from such deeds of lawlessness. They could quickly hear the harsh words that a prejudiced and bitterly partisan Northern press would hurl against Memphis, and they, of all others, knew how hard would be their task in defending the people of their city. For Walker, the rapist, there was no defense; for his fate there was no apology. But this was not the breach these newspapers had to defend. An assault, uncalled-for, absolutely without warrant, totally indefensible, had been made upon the Law and the Law had been spat upon, set at naught, cruelly and unjustly crucified by a mob of lawless and bloodthirsty men. Walker was in the possession of the Law. The whole machinery of the Criminal Court was ready to move against him and mete out to him that death he deserved. His guilt was beyond dispute and by the hand of the Law he would have died had not its sacred prerogative been ruthlessly usurped and riotously set at naught.

The demand for an investigation of the constituted functionaries of the law was prompt, earnest and forceful. Judge Scruggs had succeeded Judge DuBose on the Criminal Court bench. He forcibly made plain to the grand jury their duty in the matter and the wheels of justice, unclogged of the gore that had locked them so long, began to turn with promising smoothness. But what was the result? An unknown tramp and a few citizens were arraigned for trial, but out of the several hundred talesmen summoned only one man could be found who, according to the unique law of Tennessee, was competent to serve as a juror in the trial of the case. Sheriff McLendon was indicted, *pro forma* as were some of his deputies, but these indictments served only to fill up a vacuum in a secretive pigeon hole and over all the proceedings there fell the impenetrable veil of silence and safety. Attorney-General Peters sighed as he looked at the one occupant of a chair in the jury box, realizing that he was helpless to do his duty and so he turned to that *dernier resort*, a *nolle prosequi*, and in that found surcease for perturbed convicts.

Ought Sheriff McLendon to have withstood that mob? He ought. His oath of office bound him with unbreakable chains to the superbest loyalty to his master, the Law! His duty was plain. To falter was recreancy; to retreat was disloyalty. "Duty," wrote the peerless Robert E. Lee, to his son, "is the noblest word in our language. Be ever loyal to your duty."

REAPING THE WHIRLWIND.

Sir Isaac Newton, lazily stretched out on the sward under the apple tree, saw a bright red globe of fruit fall to the ground. Sir Isaac was not only a philosopher of most eminent gifts, but he was an alert and active student; there was not a loaferish piece of machinery in his mental workshop. The falling of that apple at once set him to thinking and the result of his cogitations was the discovery of the law of gravitation. The apple fell because an inexorable law pulled it down. But for that law the luscious sphere might have flown star ward or taken a trip towards the north pole or a shoot to the orient or landed in New York or on the Chickasaw Bluffs to be eagerly picked up by some good little Indian. But Sir Isaac's discovery did not establish any new force in Nature. That law had been in operation since that historic and unfortunate fall in the Garden of Eden, a tumble that has been a source of more trouble in the world than any other and to which is ascribed all the meanness and deviltry of the human race. So, in like manner is the operation of the law of cause and effect. "As ye sow, so shall ye reap." The people of Shelby County had been sowing dragons' teeth and the ripened crop was a harvest of blood and widowhood and orphanage and shame and disgrace. When that awful tragedy occurred in the bottoms of Big

Creek, near the little hamlet of Millington, in the still hour of midnight, it seemed a part fulfillment of the prophecy of old Jeremiah: "Behold, the noise of the bruit is come, and a great commotion out of the north country, to make the city of Judah desolate and a den of dragons."

The inexorable Law had not been wiped off the statute book of the Eternal! The people who had sown the seed of apathy, indifference, half-hearted and cowardly winking at the destructive work of the two mobs whose deeds have been herein recorded, were to be suddenly confronted with the hideous fruitage of that sowing. The Bashi-bazouks of society had been given free rein and fell and foul were their deeds. Disobedience to any law. Divine, physical or spiritual, brings at last the penalty. "Laws," says rugged old Tom Carlyle, "written, if not on stone tables, yet on the azure of infinitude, in the inner heart of God's creation, certain as life, certain as death! I say, the laws are there, and thou shalt not disobey them. It were better for thee not. Better a hundred deaths than yes! Terrible 'penalties' withal, if thou still need penalties, are there for disobeying!"

The voice of Right and Justice and Law had been stifled in Shelby County, and it seemed as if the people had forgotten that "The Law is the standard and guardian of our liberty; that it circumscribes and defends it."

So then naturally came the butchery of six negro men, handcuffed and helpless on the night of August 31, 1894, a few miles to the north of Memphis, the story of which, as it passed from mouth to mouth along the city's busy streets on the morning of the next day, gave sudden pause to men in their tasks and swept over the town like the breath of a simoon. It seemed too appalling to be true. It was so burdened with every element of savagery that to the ear of the civilized it met with indignant repulse. And yet it was true, and while good men and law-loving citizens heard, with shame and indignation, the story of this crowning crime, six stark and mangled human forms were lying on the blood-soaked ground, the victims of as cruel and cowardly a conspiracy as that by which Nana Sahib beguiled the Christian men, women and children at Cawnpore into the clutches of the fiendish Sepoys. There was a Nana Sahib at that Big Creek massacre, as cruel, as heartless, as vindictive and as bloodthirsty as was that young Indian on the bank of the Ganges.

THE STORY OF THE BUTCHERY.

The story of this Big Creek butchery must be briefly told. It is too horrible to hold the pen in lengthened service:

A few days before the lynching Jeff. Laxton, a merchant doing busi-

ness at Kerrville, a little village of some 150 people, on the Chesapeake, Ohio and Southwestern railroad, some 20 miles from Memphis, came to Memphis and swore out warrants before Justice of the Peace W. H. Hughey for the arrest of eight negro men, living in and near Kerrville, on the charge of arson, or barn burning. There was and is a justice of the peace near Kerrville, but Mr. Laxton deemed it expedient to seek such a functionary several miles away from the homes of the men he wanted arrested. There was an ulterior and now perfectly plain purpose in this on the part of Mr. Laxton. The warrant, for all the names were on one warrant, was placed in the hands of W. S. Richardson, a self-constituted private detective and a "range" deputy sheriff. Richardson had had some experience with an alleged band of barn-burners in the neighborhood of Kerrville and as he was in all other respects fitted to do the work of the men who employed him, he was chosen. On Friday morning, August 31, 1894, Richardson took a train and landed at Kerrville at 8 o'clock that morning. He loafed about the village until noon, not even attempting to make an arrest. After dinner, with three men, Will Thompson, Ed. Walker and A. T. Atkerson, he went to work. It was late in the afternoon before a single arrest had been made, and before all the men wanted had been arrested night had been on duty for some time. And yet every man arrested was either at his home, at work, or within less than ten minutes' walk from Laxton's store, where Richardson made his headquarters. The train from Kerrville to Memphis passed the little village at 6 o'clock, p. m. From 8 o'clock in the morning, the time at which Richardson reached Kerrville until the evening train to Memphis there were ten hours in which he could have worked and in which time, and far less, every arrest could have been made. But Richardson knew his business. The negroes were not to be taken to Memphis on the train but in a wagon. The truth is, the intention was that these negroes were never to see Memphis! Having made the arrests Richardson handcuffed his prisoners, loaded them into the wagon and started from Kerrville at about 10 o'clock Friday night. Atkerson was the driver of the wagon, which with its load of doomed prisoners, slowly moved along the star-lit road to the point where it was met by the barbarous fiends bent on slaughter. This point was in the Big Creek bottom, some seven miles from Kerrville and fifteen from Memphis.

It was midnight when this place of carnage was reached. According to Richardson's story, he was suddenly aroused by a voice in front of the team, warning him to turn back, as the bridge was down and he would have to go around another way in order to proceed on his journey. He obeyed the voice, turned the team about and was driving quietly along when he was again and unexpectedly halted, while walking at the

head of the team, by a man who stepped out in the road and ordered the thoroughly surprised (?) detective to throw up his hands. Of course this order would not have been obeyed had there been but one man to enforce it, for Richardson is a brave (?) man, but there suddenly came to the support of the man who made the order fifty heavily armed men, determination flashing in their eyes and murder firing their black hearts. Who were they? Richardson did not know, so he says, as they wore masks!

Then the firing began and in a few seconds the most dastardly crime ever perpetrated in Shelby county was writ in blood on the county's record. This, in brief, is the story. The murdered men were: Dan Hawkins, Warner Williams, John Haynes, Ed. Hall, Robert Hayes and Graham White. There would have been two others, William Moring and Darius Bland, but fortunately for them, they escaped arrest.

After the slaughter had been completed and the dead bodies thrown out of the wagon, the mob rode away. Atkerson unhitched one of the team and, by direction of Richardson, rode to Squire Hill's house, some few miles away, to tell him of the lynching and to have an inquest held. Richardson remained for awhile with the bloody bodies, but tiring of his weird watch, sought a near by farm house where he went to bed and to forgetfulness in peaceful slumber! From this embrace of gentle Morpheus he was awakened about daylight by the arrival of Magistrate Hill and Jehu Atkerson. A coroner's jury was impanelled and an inquest held. The only two witnesses were Richardson and Atkerson who told what has already been recorded. No jury of inquest ever looked upon a ghastlier sight. The bodies of the negroes had been literally shot to pieces, and especially horrible was the appearance of Dan Hawkins, whose head was but as a bloody mass of jelly, giving evidence that he had been the special object of the mob's fury. Richardson ordered Atkerson to take the dead negroes back to Kerrville, while he and Magistrate Hill hurried to a station to take a train to Memphis. The news of the killing had spread rapidly over the neighborhood where it had taken place and there quickly gathered a large crowd of both whites and blacks. The latter gazed with awe and fear on the mutilated forms of their brothers, but not a word of revenge was heard from them. They silently followed the wagon with its gruesome freight back to the little village and then went to their homes to meditate over the tragedy.

There was a widow for each of the dead men and many orphans, some twenty six in all, to bewail the death of husband and fathers. It was a pitiable picture that was witnessed in the street of Kerrville that Saturday afternoon—a picture of grief and woe and fear and anguish beyond description. Let the curtain fall over this picture, framed in black and painted in the red blood of six helpless and defenseless human beings!

When Magistrate Hill arrived in Memphis he went at once to the court house and told the story to Criminal Court Judge L. P. Cooper, who had succeeded Judge Scruggs by appointment on that bench and who had been elected for a term of years. Judge Cooper took prompt action. He had determined, before he heard of this crime, to adjourn his court for two weeks and had ordered the grand jury to make its final report to him that day. But this story changed the program. Judge



CRIMINAL COURT JUDGE L. P. COOPER.

Cooper at once ordered Richardson before him and told the grand jury that he would continue their services in order that they might investigate this slaughter. Richardson appeared before Judge Cooper and in low tones told his tale. The Judge promptly issued a bench warrant for Richardson's arrest and in short order the "range" deputy and modern Vidocq was taken to the county jail and locked up in a cell. Acting on what Richardson had told him Judge Cooper also issued five other

bench warrants for parties he suspected of being implicated in the killing. The story of the lynching, the arrest of Richardson, the peculiar circumstances surrounding the arrests, the horrible fate of the manacled negroes, were the one theme of talk throughout the city, and public indignation against Richardson and his accomplices, whoever they might be, began to rise and grow in intensity and force until it seemed at one time that another lynching would stain the streets of Memphis. But, happily, wise heads stemmed the current of opinion and the Law was once more in honor. Mark this fact: This lynching was done in the expiring hours of an administration that had been rich in such deeds.

THE GRAND JURY.

The grand jury which investigated this crime was composed of the following citizens: Gen. R. F. Patterson, foreman; John T. Hillsman, secretary; C. W. Kealhofer, B. R. Miller, T. J. Barchus, E. F. Clake, C. S. Richardson, W. B. Galbreath, M. Halle, T. E. Johnson, J. H. Smith, Fred Wolf and W. T. Chapman. This body of inquest began work on May 21, and by order of the court made its final report on September 1, having found about thirteen hundred true bills against violators of various laws. When the grand jury made its report it was told by Judge Cooper that he had just been informed of the lynching of six hand-cuffed negroes in the northern part of this county the night before and his Honor directed the grand jury to take up the matter and make a thorough investigation of it and, if possible, bring the guilty parties to punishment. After two weeks of constant work, the grand jury reported the indictments they had found against the men whom they were satisfied were guilty of the crime and the body was adjourned without day.

The thirty-first day of August closed the regime of Sheriff McLendon, during whose term of office the other two lynchings had taken place. On September first a new man, A. J. McCarver, was installed as sheriff, and a new set of deputies were on duty. Was there any connection between this expiration and this lynching?

A RINGING EDITORIAL.

In its issue of September 2, the Commercial Appeal had the following editorial:

"We publish this morning the story of one the most sickening, barbarous and inhuman tragedies ever told in these columns. We refer, of course, to the murder of six negroes by a mob near Kerrville. It was a deed of almost inconceivable savagery, an act of cold-blooded, brutal, devilish atrocity that makes every nerve vibrate with horror and the heart sick with loathing for the bloody beasts that committed it. Every

man in any way connected with or responsible for this awful crime is a wretch whose feet would defile the gallows and whose neck would disgrace the rope that strangled him. Such things as these fill the soul of every citizen who has pride in the good name of his community with a feeling akin to despair. It shows the depth of the terrible demoralization that has spread abroad and permeated society on account of the long supremacy of the lawless classes. All the circumstances of this hideous tragedy are black and forbidding. We would not accuse any man wrongfully. We would not cast an unjust suspicion upon anyone of complicity in the perpetration of such a hellish deed. We earnestly hope that it is no worse than it is painted by the known facts. There are some features of this crime, therefore, upon which we have no comment to make, except to demand a most rigid, thorough and merciless investigation. To the community in general it is a warning that it is time to call all the strength of law and order into the field for a war of extermination upon the spirit of rampant diabolism that is striving to take possession of the country. We cannot blink at such deeds as this. We cannot hide them, nor obscure them by a policy of silence and inaction. They cry aloud and accuse us before the civilized world. The longer public sentiment takes no position and definite form the worse it will be. The whole community is stained with this awful crime. The whole community must bear the odium of a deed done by a band of ruffian, midnight assassins, unless it takes action to clear itself of all responsibility. This deed was done in the closing hours of an administration that has been peculiarly rich in crimes against helpless prisoners. Let us hope that it will be the end of the blood chapter, and let us hope that the new will distinguish itself by an earnest effort to vindicate the law and bring to justice the barbarian scoundrels that did this deed."

Startling developments during the investigation by the grand jury and the trial of two of the men indicted for this butchery showed that the closing "hope" of this editorial was built on sand. But of this later on.

AN INDIGNATION MEETING.

In response to a published call and especially in answer to the patriotic utterances of the Commercial Appeal and the Evening Scimitar, an indignation meeting was held at the Merchants' Exchange, on Friday night, the 7th of September, just one week after the lynching. This meeting was attended by a great crowd of all classes of citizens both from the city and the surrounding country. There was a marked determination evinced at that meeting to ferret out the perpetrators of the crime and to bring them to punishment. Mayor W. L. Clapp presided over the meeting with J. S. Menken, John K. Speed, Dr. R. W. Mitchell, J. M.

Greer, James Lee and D. P. Hadden as vice-presidents. Most eloquent and straight-from-the-shoulder speeches were made by Gen. G. P. M. Turner, Judge Greer, Hon. D. P. Hadden, United States District Attorney Jule Taylor, C. W. Metcalf, A. S. Buchanan, J. H. Malone E. W. Carmack, Rev. Dr. Woods, Rev. Dr. G. A. Nunnally and others. A committee on resolutions was appointed and in substance reported that the citizens of Memphis and Shelby county had learned with shame and horror of the awful crime perpetrated in this county whereby six helpless prisoners were barbarously murdered, that we denounce said crime as a wicked, fiendish and inexcusable massacre, and demand that the perpetrators thereof shall be brought to justice; that we commend the action of Gov. Turney in offering a reward of \$5,000 for the arrest and conviction of the murderers; that we will aid the officers of the law in every way possible in apprehending and prosecuting the criminals; that a fund be raised for the benefit of the widows and orphans of the murdered men; that we place on record our emphatic protest against the prevalence of mob law as destructive of society and civilization; that we recognize the worth of the industrious, honest and frugal colored man as a citizen, and we view with sympathy and sadness the humiliation to which he is subjected by the outrages of the mob, and we hereby pledge ourselves to defend him against all such crimes, and demand for him an equal showing before the law.

The resolutions were unanimously adopted.

Editor Carmack, of the Commercial Appeal, in the course of his speech, said: "It is time for the soil of Shelby county to be wiped free from the crimes and blood that polluted it. I cannot see how anyone can lift up his voice in defense of the South as long as such crimes are permitted to be practiced with impunity. Mob law is ruinous to the youth of the land. Once a man tastes of human blood, he becomes a scoundrel and a murderer and a villain forever. This is a white man's country. The white men make the laws and are charged with enforcing them. The white men owe it to themselves to see that the negroes have an equal chance under the law."

Subscriptions were called for and in a little time over \$1,000 was raised, black men contributing of their means as freely as white men. The money was voted to be used as a prosecution fund and for the widows and orphans of the murdered men.

INDICTMENTS AND ARRESTS.

The grand jury went immediately to work, inspired by the horror and colossal criminality of the deed. It was a body of solid and safe citizens, and in them the people of Shelby county who have the best inter

ests of the county at heart and who desire that the Law shall be held in supremacy, found a vigilant, courageous and safe court of inquiry, who could not be turned from their duty and who well won the highest esteem and deserved the sincerest gratitude of every worthy citizen for their splendid and prompt efforts to bring the outraged hand of the Law upon the vandals who had entered and despoiled the Temple. From time to time the grand jury returned indictments to the Court, until at last having exhausted all avenues of investigation, after having beaten aside the secret efforts of certain court officials to bar the way and make futile the efforts of the grand jury, thirteen men were indicted for this crime. They are: W. S. Richardson, E. T. Atkerson, J. D. Laxton, James Sisley, H. N. Smith, W. G. Thompson, Mike Strickfaden, J. W. Walker, F. H. Berry, Frank Tucker, Sid Douglass, Ed. Armour and John Rice.

These men were arrested as soon as possible, after the warrants had been issued, and they found lodging in the county jail. Against some of them there was only slight circumstantial evidence, and they were released on bail. This was the case with Sid Douglass, W. G. Thompson, Ed Armour, Frank Tucker and John Rice. Bail for the others was refused and not until after the trial of Smith and Richardson did they regain their liberty.

During the investigation by the grand jury there were some sensational developments. Sheriff McCarver had installed as assistant jailer a young man by the name of Will Cox. Cox had told City License Inspector Theirs that "Butch" McCarver, son of the sheriff, had told him (Cox), before the lynching occurred that it would take place and that he, "Butch," had been asked to take a hand in it. This information Theirs imparted to a reporter and the latter published it. The grand jury called on Cox for a rehearsal, under oath, of the story. He denied it. Then it was proven that he had perjured himself and he was placed under arrest. "Butch" McCarver was a witness before the grand jury and a most startling story it was he told.

McCarver, under oath, said that two days before the lynching he had met Smith, Sisley and Berry at a vacant store on Second street in Memphis. There was also present Ed. McCarver, a brother of the witness. Smith took "Butch" off to one side and unfolded to him the plot to murder the negroes, and invited him to join in the killing. The young man replied that he would take the matter under advisement. "Butch" further stated that Sisley said to Smith: "Don't get Arch McCarver's boys into trouble." Smith persisted in making "Butch" a party to the lynching, assuring him that there would be no trouble, that Richardson had been employed to make the arrests, that he was to put the negroes in a wagon after dark at Kerrville, start with them to Memphis and the

lynchers were to meet him on the road and do the killing. Again Sisley interfered with a protest against taking in the sheriff's son and the conversation ended. Now this is what "Butch" McCarver told Jailer Cox, what he told the grand jury under oath, and upon which the State strongly relied to prove a conspiracy on the part of Richardson and the other prisoners to kill the negroes. The arrest of Cox for perjury, the testimony of young McCarver before the grand jury, the bringing out the fact that Sheriff McCarver knew of the attempt to "rope in" his boy by the lynchers, before it was told to the grand jury, all conspired to set the town aflame with interest in the case and to cause the inquiry: "What next?" The removal of Cox from the position of jailer was necessitated by his arrest and Judge Cooper put Gen. Kellar Anderson, of Coal Creek fame, in charge of the jail, even above Sheriff McCarver in authority. The exigencies of the case demanded the utmost and most reliable vigilance over the prisoners and General Anderson was ordered by the Court to not only exercise this but to place the alleged lynchers in separate cells, to allow them no liberties whatever and to permit them to have no intercourse either with each other or with any outsiders. This regime was continued for some time, and then it was abolished and the men under indictment for the lynching were allowed all the privileges possible within the prison walls. In fact, these men were especially favored, Sheriff McCarver even taking one of them to his home 20 miles away and there remaining over night—an act without warrant of law. "Butch" McCarver was placed under a bond of \$10,000 to appear as a witness before the petit jury and the preparations for the trial were vigorously pushed.

WHOM DID THIS BRICK HIT?

From the very inception of the investigation of this case by the grand jury and Attorney-General M. R. Patterson, who had been inducted into office the first day of September, the day after the lynching occurred, it was gradually made evident that there was a secret, but powerful, combination at work to thwart the work of the jury and to shield the men under indictment. There was a block in the way somewhere, a hidden, covert set of forces at work that gave no little trouble and hindrance to the Attorney-General and the jury. It was charged, and there was no denial of the charge, that Sheriff McCarver was the main obstacle in the way. It was well known that the men, Ned Smith, Mike Strickfaden, Jim Sisley and Frank Berry had been most earnest workers for Mr. McCarver in his race for the shrievalty, and, in fact, that Frank Berry, one of the indicted men, had been made a deputy sheriff by the newly elected sheriff. The general belief was that Sheriff McCarver was

standing by his friends and that his efforts to protect them were balking the work of the grand jury. At any rate when that body did finally adjourn it threw a brick, and the inquiry is pertinent: Whom did it hit? Said the grand jury:

"The results of our labors have been to find true bills for murder in the first degree against thirteen men who were shown by the evidence to have been connected with the murder. The grand jury has had great difficulty in getting the evidence we were satisfied the witnesses could give, from the purpose of some to conceal what they knew, and the fear of others to give information; besides, we have reason to believe, serious obstacles were thrown in the way of developing all the facts by officers whose duty it was to render every assistance possible to help to ferret out the criminals."

The grand jury did its work in a brave spirit and without the tinge of fear or favor. It justly won the proud distinction of having been the best grand jury Shelby county ever had and individually and collectively its members are held in supremest respect by the citizens they so faithfully served.

GEN. R. F. PATTERSON.

The foreman of that grand jury is a Northerner by birth and was a brave soldier in the Federal army during the Civil War. He entered the army in June, 1861, as adjutant of the Fifth Iowa infantry. After the battle of Corinth he was promoted to Lieut. Colonel of the Twenty-ninth Iowa infantry and brought that regiment out from Council Bluffs, Iowa, in December, 1862. He participated in the capture of Island 10, the advance on and capture of Corinth from Pittsburg Landing, the battles of Iuka and Corinth. Was in the siege around and capture of Vicksburg, the battle of Helena, the capture of Little Rock, the investment of and capture of Spanish Fort and Blakeley, Ala., and the capture of Mobile, Ala. He was mustered out at New Orleans as Brevet Brigadier General in September, 1865. General Patterson came to Memphis in 1867, where he has since lived, an honored and respected citizen. President Grant appointed him collector of internal revenue for this district, which position he held for thirteen years. He was appointed postmaster at Memphis by President Harrison, holding the office for four and a half years, having been relieved by President Cleveland in January, 1894.

THE BATTLE ROYAL.

After the grand jury had finished its work another one was sworn in, but the latter returned no indictments against anyone for lynching. Then began active preparations for the battle royal—the trial of the men for the crime for which they had been indicted. Upon one man, especially, rested the grave and serious work of vindicating the law and the bringing

to punishment the men who had so wantonly, violently and outrageously taken the law into their own hands. That one man was



ATTORNEY-GENERAL M. R. PATTERSON,

who had been inducted into office the day after the lynching had taken place. Attorney-General Patterson is a young man and in the role of prosecutor he had had scant experience. But he had shown remarkable power as a criminal lawyer in some notable criminal cases in which he had appeared as defending counsel. He is an Alabamian by birth, the son of Hon. Josiah Patterson, who now represents the Tenth, or Memphis, district in the House of Representatives of the National Legislature. Mr. Patterson is a gifted man. His mental forces are far above the common and of such virile quality as to not only make him peerless among the younger men of the Memphis bar—and there are some brilliant young

fellows at this bar—but give assured prophecy of a rank in the future that will reflect honor upon the State of his adoption. He is also a hard student and in the work of preparation for this great contest he showed that, like Sir Walter Raleigh, "he could toil terribly." As an orator there are few men his equal, fewer still his superior. He is a master of the purest style of speech and possesses a magnetic grace of delivery that is both captivating and effective. His speech in this case, closing the argument for the State, has been declared a classic of legal learning, forensic logic and of unsurpassed eloquence. He fought hard, bravely, unflinchingly and with a noble purpose to vindicate the good name of Shelby County and wipe out, by merited punishment, the bloody stain that had been put upon it, and though he went down in defeat he went down in honor and with the encouraging assurance that the people of his county trusted him more fully than they did on the day they gave him at the polls such a magnificent token of their confidence in his ability and integrity.

There was another man to whom the best citizens turned with trust in this battle against lawlessness. That man was ex-Attorney-General George B. Peters, who for eight years had stood as a tower of strength in defence of the law against the lawless of every degree and character. There was a general wish that he should assist the State's attorney in the prosecution of this case and he was employed so to do. General Peters is accounted to be one of the most powerful criminal lawyers in the State of Tennessee and in his hands a witness leaves the stand absolutely drained dry of every drop of knowledge he may have been possessed bearing on the case in hand. Thus was the State championed in this cause celebre. To assist them in their investigations these attorneys secured the services of W. O. Hedrick, a detective of marked ability in his line, a safe, sound, cool-headed and fearless officer.

In order to facilitate the trial of the thirteen indicted men the grand jury on November 6, 1894, returned a joint indictment against W. S. Richardson and H. N. Smith, charging them with the murder of the six negroes and with inciting others to commit that murder. On November 7th the two men were placed on trial. The trial lasted for thirty seven days, not including Sundays, and was the longest and costliest one ever held in Shelby county. There were several hundred men summoned before a jury was obtained and during the selection of the twelve men who were to determine the fate of Richardson and Smith there were some very ugly and disgraceful developments. Judge Cooper had instructed Sheriff McCarver not to summon citizens living north of a certain line running east and west through the county, but this order was violently disregarded, either by the connivance or carelessness of the sheriff. In

three instances Attorney-General Patterson discovered that he had been led into a trap by accepting as jurors men who were legally or morally unfitted to serve as such. One man was "rung in" on the State who was in the employ of the sheriff, working and living at the jail, eating and associating with the prisoners and on the most intimate and friendly terms with them. The man was not either a freeholder or a householder, as is required by the law of Tennessee in order to be a competent juror. Then there was a bartender who had to be pulled off the jury on account of legal disabilities, not known at the time of his acceptance, because he pretended to be a householder when he was not. In truth, there seemed to be a studied effort to pack that jury and it would have been done but for the argus-eyed watchfulness of General Patterson and his keen assistant, General Peters. The State not only had to fight from the start open and bold enemies, but a set of bold and unscrupulous bushwhackers who let no opportunity get away from them in which to help Richardson and Smith out of the net. A large fund had been raised for their defense and two of the shrewdest, if not ablest, lawyers at the Memphis bar had been employed to defend them. The jury, however, was secured sooner than had been anticipated and the great fight was on. The jury was as follows: V. H. McKain, farmer, foreman; J. W. Walker, farmer; R. D. Parkin, engineer; J. D. Remus, boarding-house keeper; O. B. Walker, farmer; G. W. Wright, gardener; W. W. Walker, farmer; J. M. Rowlett, carpenter; A. M. Clinton, farmer; J. W. Duffy, drummer; I. M. Casey, farmer; R. W. Odum, farmer.

There were virtually eight farmers on that jury and when it is recalled that all of the men indicted for the lynching, except Richardson, Strickfaden, Laxton and Sisley were farmers, it will not be charged that it is a violent stretch of the imagination to say that the sympathies of these eight jurors ran in a pretty strong current towards their brother soil tillers. It was scarcely an average jury in intelligence. Some of them had not read of the lynching, although the story of that diabolical crime had covered columns in the daily and weekly newspapers. None of them, however, had run counter to the out-of-date law of Tennessee defining the proper qualifications of a juror in so grave a cause, a law that sets a premium on ignorance and bars from the jury box an intellect capable of concentrated thought on a given subject for at least ten consecutive minutes, and so they passed the ordeal of questions and became the arbiters of life and death, of liberty and imprisonment, and the guests of the county for more than a calendar month.

It is impossible to give even the barest outline of the testimony introduced by either side. The purpose of the State was to show that there had been a conspiracy to kill the negroes and that Richardson and

Smith were not only parties to that conspiracy, but that both had taken an active part in that murder. The evidence showed that Smith had been most active in securing the services of Richardson in making the arrests, that he had tried to secure the help of "Butch" McCarver in the slaughter and that he had full knowledge of the conspiracy. As to the testimony against Richardson it was strong, clear and without a missing or a weak link in the chain. Unimpeachable witnesses swore that he told them that there would be a lynching before long in the neighborhood of Kerrville. General Peters, himself, resigned as assistant counsel for the State, went upon the stand and gave the most damaging and damning testimony against Richardson. He told what Richardson told him about a coming lynching of negroes and how that the life of a young lawyer who had been the attorney for some of the negroes previously arrested for these barn-burnings would be taken with the lives of the negroes. There seemed no hope for the two men and their fate appeared to be the gallows or the penitentiary for life. Some of the best men in Memphis, among them Chief of Police Davis, who stands unimpeached and unimpeachable, a man of the highest character, who had Richardson under him on the police force, swore that he would not believe Richardson on oath, after the latter had made his statement of the lynching to the jury. Smith was put on the stand and during his cross-examination developed the most remarkable case of hiatus in memory on record. He had absolutely forgotten his own actions on certain days except the most trivial and unimportant. Smith is a Canadian by birth and came to Shelby county from Indiana some years ago. He is a deacon in the church and has lived an outwardly respectable life since coming to this section.

THE LINK THAT BROKE.

The State had wound around these two men a strong chain of evidence and across their path there seemed to fall the shadow of the scaffold of ignominy.

"Butch" McCarver was called to the witness stand by the State. That was the link that broke; that was the key that unlocked the jail door to freedom for Richardson and Smith. "Butch" McCarver was the State's principal witness, but when he was placed on the stand he startled the Court and the State's attorneys by avowing himself to be a man who neither believed in God nor a state of future rewards and punishments! He said he believed a man to be like a cow or a horse or a cat or a dog; that when he died that was the end of him. The young man made this startling declaration before he was put under oath, and at the instance of Gen. Luke Wright, of counsel for the defense. General Wright did not surprise the witness when he asked him if he believed in God or a future

state. Neither did the witness surprise nor shock the lawyer by his answers. It was all a cleverly arranged before-hand denouement, a skillful coup d'etat upon the lines of the State. The lawyers for the defense, General Wright and Colonel Gantt, knew the reply "Butch" would make to their question before he was called to the stand. They knew that the affirmation of being an infidel would knock a big hole in the credibility of the witness who made it, even if it did not disqualify him altogether, and they were prepared to fight against the use of the young infidel as a witness by the State. That it was a pre-arranged scheme is clearly proven by the fact that the question was asked before the oath had been administered to the witness, and that when the contention arose as to the qualification of the witness, one of the counsel for the defense pulled out of his coat pocket a lengthy and elaborate type-written brief, bristling with arguments and authorities to sustain his position! That "impromptu" brief was as ludicrous an assault on the intelligence of the community as was the made-on-the-spot decision of the judges of the Confederate Veterans-Chickasaw drill or the report of the committee on rules at the last State Judicial Convention.

But the truth is some one had put Butch McCarver up to this declaration of his beastly unbelief. He did not think it out himself. He had a Mind behind him and he was but the monkey on a string for that Mind. He had testified under oath, freely taken, before the grand jury; he had testified under oath, just as freely taken before Judge Cooper when Mike Strickfaden was seeking to obtain bail. Not once had his peculiar views on God, the future life or the immortality of the soul been brought out or ever dreamed of. His father and mother testified that they were ignorant of their son's infidel views and to both his declaration of them was a sad and heart sore revelation. Dr. A. J. Williford testified that the newly-discovered infidel had expressed his views to him several years ago, which meant that "Butch" was scarcely out of the "purple light of youth" when he thus formulated his opinions upon the gravest themes that can interest human thought. And when the boy did thus unburden himself to the doctor he was in great physical pain, suffering from a horrible disease for which he was being treated by the doctor. Again, Dr. Williford was deeply interested in the result of the trial of Richardson and Smith, for Frank Tucker, one of the men charged with complicity in the lynching, is a brother-in-law of Dr. Williford and an acquittal of the two men on trial meant an acquittal for Tucker. That "Butch told Dr. Williford what the latter said he did is true, but why was "Butch's" testimony, under his voluntary oath before the grand jury and Judge Cooper allowed to go unchallenged? Why was not his infidel belief brought out before? Who put this wild, reckless young man, this self-con-

fessed tough young fellow, this "crap" shooter with a negro partner, up to this scheme to defeat the Law and make a mockery of Justice? He is mentally incapable of such a deep trick. He did not know that such a declaration would break the credibility of his testimony, if it did not disqualify him as a witness. Upon this dastardly assault upon the rights of society the Memphis Avalanche had this editorial:

THE MIND BEHIND BUTCH MCCARVER.

"The indignation of Memphis over the confession of Butch McCarver that he is an atheist, and therefore incapable of giving testimony against the lynchers is extreme. . . . The condition of affairs is certainly not calculated to sooth the impatience of the people and to smother their rage; but when we sift the matter to its ultimate origin, where does the responsibility lie? Butch McCarver has testified in courts of justice before. He has testified in this lynching case before. It has never occurred to him to demur to his own testimony before on the ground that he is an atheist. He is evidently a dull clod of a fellow who has never given the subject of religion any thought at all. Now one thing is certain, Butch McCarver never thought out this plan himself of clogging the wheels of justice. He is too dull for that. It is also doubtful whether he has any fixed belief on the subject of God and the future life. The probability is that some astuter mind than that of Butch devised this masterly stroke for the defense and that Butch consented to plead his atheism in order to save his friends. He says that he told no one of his state of mind. His own father was absolutely unaware of it. It is therefore entirely reasonable to infer that the idea of having him become an atheist was not his own thought, but the thought of a shrewder, keener intelligence. Now whose idea was it? So far as young McCarver is concerned, he is a mere tool. He has been sacrificed. After having performed the greatest possible service to the defense, he has been "roasted" by the attorneys for the defense. He was denounced as an unworthy son, a perjurer, an infidel and a pumpkin vine. He was described as a dullard and a fool. This makes it all the more certain that Butch did not think out this coup d'grace all by himself. He was the mere implement, and the responsibility for any defeat of justice does not lie with him. There is no reason either to believe that his father, the sheriff, was the parent of this bright idea, for we doubt very much whether Arch McCarver ever knew that an atheist labored under any disabilities; and it is certain he had sense enough to know that the course his son has pursued would be extremely embarrassing to himself. No, the Mind that engineered this thing, that first conceived it, was neither Butch McCarver's nor the sheriff's. Whose was it?"

The attorneys for the defense are exceptionally smart lawyers, full of resources and to clear their clients in this case meant considerable additional lustre to their already luminous fame as criminal lawyers. To supply Butch, the dullard, with a small slice of Mind would not impoverish them in the least, while it would serve a most necessary purpose. What a pity it is that some equally as generous a friend to the State could not have had the privilege of donating even a modicum of Mind to the trial jury!

Following "Butch" McCarver's declaration of his Ingersollian tenet of belief, came a warrant for his arrest on the charge of perjury and he was made a prisoner in the jail over which his father has authority. That warrant still stands against him, as does the one for the same charge against ex Jailer Will. Cox. Will these two unique prisoners be tried for this offense? Will the State make of them vicarious sacrifices for the greater and grosser sins of others? Or has the storm of indignation blown over and the sky cleared of every fleck of black clouds?

A SALTY CARD.

Attorney-General Patterson was outraged by the atheistic avowals of "Butch" McCarver, and believing that Sheriff McCarver was a party to the plot thus made plain to defeat the course of justice published, over his own signature, this blistering charge against the sheriff:

"It is not probable in my whole official career that a case of the magnitude and importance of the one now on trial will be presented. I have undertaken to do my whole duty in the preparation and presentation of the facts before the court and jury. My efforts have, in a measure, been thwarted by a sheriff in sympathy with the defendants and whose conception of public duty does not rise higher than the ties of personal friendship. The disgraceful episode enacted in court to-day is a culmination of official delinquency and an affront to every law abiding citizen. The dignity of the law has been insulted, and I hope to have the moral support of the entire community in my efforts to correct the evil."

ANOTHER STINGING REBUKE.

In his superb argument to the Court upon the admissibility of "Butch" McCarver's testimony, even after his avowal of infidelity, Assistant Attorney General Peters uttered these caustic words:

"It is legitimate for the State to examine further into the surroundings, and not only to probe the motives and influences which may have controlled this young man, who has made this extraordinary exhibition in this court room, but to show also the entire sympathy and support of the witness now upon the stand," Sheriff McCarver, "with and of the de-

fendants on trial; and it is with this idea that we believe facts can be produced here that will conclusively demonstrate to this court's mind that this young man, who gives this evidence of his moral perversion and depravity for the first time, has environments around him and is speaking under such control and influence as have forced him thus to turn his back upon everything he has said, and to put the State at this disadvantage. To be more specific, in order that the purpose of the State may be known, and your Honor may determine whether or not you will admit this proof, we have felt, as having a bearing upon this question, that the State should be permitted to show the entire sympathy of the sheriff and his sons with some of these defendants; and their intimacy before the arrest of these parties, and their greater intimacy since their incarceration; the visits of the sheriff and one of his sons, at least, to the house of one of these defendants, not only before their arrests, but the visits of the sheriff and a son to the house of one of these prisoners since he has been in jail; the most extraordinary, unwarranted and illegal treatment, by the sheriff and his deputies of these prisoners; the extraordinary features attending the summoning of the jury, which, to our judgment, plainly and purposely sought to put the State at a disadvantage; the taking by these conspirators of one of the sheriff's sons into their confidence, and his knowledge of this affair; the knowledge of the sheriff himself, before that son went before the grand jury, of what his son knew; the effort of the sheriff to keep that son from testifying before the grand jury, and the culmination on day before yesterday, when that young man, under an influence and trial which, we submit, is unmistakable and plain, to our minds, disqualified himself as a witness."

During this terrific arraignment and blasting phillippic, Sheriff McCarver sat in the witness box directly in front of the speaker. General Peters as he progressed in his speech was the embodiment of relentless and courageous indignation. His eyes, fastened on the object of his merciless attack, flashed fire and his every word cut his victim like a Damascus blade. Terribly earnest he was and pitiless. The wife of the sheriff was in the court room when Gen. Peters began his speech but she could not stand the terrible denunciation of her husband and she left the room. Her husband was compelled to listen to every word of the scorching arraignment. Nothing like that terrible denunciation was ever before heard in a Memphis court room.

"Butch" McCarver was forced to give his testimony, but the value of it, the power of it, was vitiated by a vow he had made of being no more than a jackall or a skunk and with that jury his story of the conspiracy was but as an idle tale, valueless, worthless, characterless and a thing not to be believed.

But "Butch" McCarver told the truth, and had not the fossiliferous constitution of the State of Tennessee locked the door of the jury box, in the trial of felony cases, against the wisest and most intelligent citizens, that story would have had the same weight then as it did before the grand jury and Judge Cooper.

The trial dragged its slow length along day after day, but the State had, like the heroes in Gray, met its Gettysburg, and no matter how superb were its subsequent rallies, defeat was certain. There was another irreparable blow sustained by the State when General Peters, after giving his testimony, felt bound by a mythical canon of the legal profession to retire from the case as one of the counsel. His great powers had been splendidly at work in the cause of Law and Justice and to lose his services was a loss that could not be supplied. Judge J. M. Greer was called into the case, but, capable as he is, he was too heavily handicapped to do either the State or himself that justice which he is so well fitted to win in an untrammelled contest. Attorney-General Patterson fought gamely and brilliantly, but he fought against odds he could not overcome and against two of the shrewdest members of the bar, one its Mars, the other its Momus. Gen. Luke E. Wright is a splendid fighter, bold, resourceful and adroit. Colonel Ganitt, in physique like the lean and hungry Cassius, is the opposite of the unscrupulous Roman. He is a humorist and a wit, if not a learned lawyer. He laughs down the strong defenses of his opponent, and his pool-pool is as effective at times, if not as reverent in spirit, as were the blasts of the prophet's ram's horn against the walls of Jericho. The closing arguments of this quartett of lawyers were exceptionally fine, but especially strong, eloquent and brilliant was the speech of Attorney-General Patterson. He felt the responsibility upon him and he rose to the demand of the occasion. The man and the hour had met, though there was but defeat for the warrior. He had bravely battled for the upholding of the majesty of the Law and the purification and purging of the Temple of Justice, but in this fight he had lost. The peroration of his speech deserves to be treasured by every true hearted Southern man. He said:

PATTERSON'S PERORATION.

"I want it understood that I am a Southern man from skin to core; by birth and by ancestry as well. I love the South's blue mountains; I love her peaceful valleys; her far stretching plains; her fast running waters and her blue and sunny skies. Her brave sons are my brothers; her pure and beautiful daughters are my sisters; her pathetic story of desolation and woe is a part of my heritage; her glorious future is a part of my hope, and the too frequent instances of mob violence are a part of my

disgrace. I believe in the domination of the white race, but it will dominate in spite of murder, and it doesn't need murder to do it, and to-day in the presence of my God on high, of this honorable and humane Judge, and of the world, I say that as long as I have the honor to represent the State in trials in this court, I will never temporize with mob law; but in the Temple of Justice, with the arms and weapons of the Law, I will fight it, kill it if I can, and crush it as I would the head of a vile or venomous viper."

THE VERDICT.

The case was given to the jury on the morning of December 13, after a charge of singular brevity, but perhaps ample to cover all the grounds, from Judge Cooper. The verdict was rendered the next morning, and it was an acquittal. Richardson and Smith walked out of the court room free men, so far as the law had any claim on them. Attorney-General Patterson at once entered a nolle prosequi as to the other men indicted for the same crime and they were turned out of jail, where they had been just one hundred days since they entered it.

The verdict was not a surprise, under the circumstances. But it was a regret to the majority of the good citizens of Shelby county. Nor did that verdict take from all the men charged with this crime the deep and damnable odium of it. That verdict did not wash away the stain from some of them any more than it absolved the people of this county from the shame and disgrace of that lynching. There is one man whom the people still believe is guilty of complicity in that sextuple murder. That man is W. S. Richardson, the self constituted detective, the card deputy who made the arrests of the butchered negroes. A false sentiment has attempted a weak justification of vengeance on the part of the citizens living in and near Kerrville on account of the reign of terror that existed there owing to the work of the barn-burners. Whatever may be the value of this defense, "nothing can be urged in defense of a cold-blooded, hired, money-making assassin." Richardson's record is one of rottenness. He stands branded by some of the best men in Memphis as a creature whose oath is worthless and whose character is the same. He has been the cause of more than one murder since operating as a detective and wherever he has gone he has left the slime of the serpent. He went into Arkansas last spring to hunt down a gang of white-cappers and barn-burners, and after making several arrests came back to Memphis to seek safety from the men he had accused. When the day of trial of these men came on Richardson cowardly refused to go to the place of trial, but sent his assistant, Harry Webster, a brave but reckless young man, and when he came back to Memphis he was in his coffin, shot to death in a saloon in Forrest City, Ark., in a row the result of these arrests by the brave (?)

Richardson. The Mississippi record of this man is black. So is that one he made on the police force of Memphis. And yet this man, known as he was and is, this creature who is for hire for any purpose, could secure a deputy sheriff's card and go about the city and county representing the Law! Scarcely had the echoes of the verdict of the jury that gave him back to society died out of the court room before this man was off to Millington and Kerrville on the search for more victims for the mob. He went armed, openly, boldly and boastingly. He came back



W. S. RICHARDSON.

and with a pistol buckled on his person, brazenly entered the sheriff's office and there attempted to set up his business as a private detective! To the credit of Sheriff McCarver be it recorded that he kicked the viper out and bade him not to return. But Richardson is permitted to carry on his dirty work and will continue to do so until there shall be put into life a law against the evil practices of the private detective.

THE KERRVILLE FACTIONS.

There have long existed two factions in the Kerrville neighborhood. One of these factions is headed by a young lawyer by the name of James W. Palmer, the other claims as leaders H. N. Smith and Sid. Douglass, both of whom were indicted for the lynching. Politics, mixed with a small amount of religion, is said to be the cause of these divisions and the bitterness that exists in that rural section. There have been in past years some bloody deeds committed in the Kerrville neighborhood; some murders of most abhorrent, cold blooded character, but for which no penalty was exacted of their perpetrators. In recent years the form of crime has changed from murder to arson and many a barn has succumbed to the incendiary's torch. These barn-burnings and other crimes have been charged upon the negroes by the Smith-Douglass faction, while the Palmer crowd has strenuously denied the guilt of the negroes. "Jim" Palmer has appeared as attorney for the defense of some of these negroes who were arrested for arson, and this has angered the opposite crowd until criminations and recriminations have become bitter and more and more pregnant with strife. Dan Hawkins, one of the lynched negroes, had been arrested by Richardson once before on the charge of barn-burning. He was defended by Palmer. Hawkins was convicted in the Circuit court, but Palmer took the case to the Supreme court and there secured a reversal of the verdict, the State's Attorney-General stating that the evidence on which Hawkins had been convicted was trumped up and not worthy to be considered. No wonder Richardson wanted Dan Hawkins in that wagon that fatal night of August 31. Palmer insists that not one of the six negroes lynched had been guilty of barn-burning or any other crime, and that the incendiary fires about Kerrville are not lit by negroes living there, but by white men, or negroes hired for the work. It is a significant fact that the incendiary did not stop his devilish fire-works after the lynching, and that several fires have occurred in the Kerrville district since that murder. There is an ugly condition of affairs in that unfortunate neighborhood, a condition that is deplored by the good people there, but which they cannot change.

SOME CLOSING REFLECTIONS.

"The first thing we do, let's kill all the lawyers."—Shak. Henry VI. Dick to Cade.

In an exceedingly interesting and meaty paper on "Judge Lynch and the Jury Law," by Hon. J. H. Malone, of Memphis, president-elect of the Bar Association of Tennessee, read before that body at its annual meeting held last August at Lookout Mountain, the author avowed his purpose to discuss the grave subject of mob law, or lynch

ings, in the concrete and not in the abstract. That he did so in a most admirable manner a reading of his paper is ample evidence. Having no respect for glittering generalities, Mr. Malone pitched into his subject in medias res, and ably sustained his reputation as a clear thinker, a good counselor and a forcible writer from start to finish. He declared he had no sympathy with mob law. That is a manly stand, but Mr. Malone belongs to a profession that is popularly supposed to be more largely responsible for the work of the mob than any other body of men. "The law's delay" is no chimerical fancy of the laymen. It is a disgraceful fact in this country and has caused a wide-spread contempt for the law and the courts of the land. This Mr. Malone frankly admits for he asserts that lynch law is due to two causes. "First, because the laws against crime are not speedily and impartially enforced; and, second, a sort of craze has swept over the country, causing men, for the time being to lose their sober judgment and to join the mob as of old, in the cry, 'Crucify him'." That the criminal laws are not speedily, and impartially enforced in this land of boasted equal rights to all and special favors to none is shown in thousands of instances where money has purchased immunity for deserved punishment of most outrageous crimes against society. The "nigger" and the poor white man charged with crime is convicted and pay the penalty; the rich man, or the man with rich and influential friends, equally as guilty, goes unwhipped of justice. That is the rule. Are instances of this outrageous travesty needed to sustain the assertion? You who read these pages can easily supply them. The man who loots a bank of thousands of dollars either escapes the felon's call or is given such slight term of imprisonment as to pay him a handsome premium on the time he is retired from society and the genial bon homme of the club. The man who steals a loaf of bread or a five-dollar calf pays the State in full for his offense. Think of only five years in the penitentiary as full pay for a cold-blooded murder! And yet that was the penalty given a young man in Georgia, for this crime. But then he had friends at court. He is the nephew of the most famous evangelist of the day.

The immunity accorded to the man with a fat purse in this country by the law is aptly illustrative of the old poet's description of the laws of his day. Quoth this ancient bard:

"Laws are like a spider's web, small flies are ta'en,
While greater flies break in and out again."

And then there are the Technicalities. Paraphrasing Madame Roland's words, one may well exclaim: "O, Technicality, what crimes against society are committed in thy name!" How often does the keen-witted lawyer hang Justice and Law on a miserable technicality when

their client, stained with the blood of his victim, ought to be hung on a gallows.

"Who ever heard of a lynching in England?" asks Mr. Malone. "No one," he answers. This is true, and why? Simply because the law is enforced, equally, impartially and without fear or favor. Such wretched practices as are common in the courts of this country are not allowed in England and it would be impossible for nine tenths of the lawyers of the United States to practice in an English court—unless they left their hideous breed of Technicalities behind them. "Who ever heard of any complaint that the United States courts fail to execute the laws?" again asks Mr. Malone. Why then such general failure on the part of the State courts? Simply because "the law, as now administered, affords so many loop-holes of escape for the criminal." And this being true, "the plain people have lost confidence in its judgments. They say justice cannot be obtained through the courts, hence they cry, 'Away with the courts! we will take the law in our own hands!' Then lynch law is enthroned, and the bloody mob, excited to frenzy, part at least crazed by liquor, and often aided by criminals, assumes the function not only of judge and jury, but also that of executioner. Such brutality must bring the blush of shame to the cheek of our boasted Nineteenth century civilization." Thus Mr. Malone.

According to this same writer "the enforcement of the criminal laws of Tennessee is put, not in the hands of the wisest and most intelligent citizens, but in the hands of the most ignorant, and not infrequently, in the hands of the most vicious. Thus no man who reads a newspaper about any given case, and has formed or expressed an opinion in reference thereto, can act as a juror, even though he declare, on his oath, that he is unprejudiced, and, if chosen as a juror, he would enter the jury-box and give the defendant a fair and impartial trial. The law puts a premium on ignorance. Intelligence and probity are put under the ban. It happens that this precious (?) piece of law is found in the constitution, hence it is necessary to change that venerable instrument in order to rid the State of its baneful effects." Then look at the intelligence the code of Tennessee shuts out of the jury-box. The following persons shall be exempt from jury service: All persons holding office under the laws of the United States or of this State; all practicing attorneys, physicians, and clergymen; all acting professors or teachers of any college, school or institution of learning; all road commissioners and overseers; all members of fire companies; all persons over sixty five years of age disabled by bodily infirmity or specially exempt by any other law; and all officers, musicians and privates, and contributing honorary members of the national guard of the State. As Colonel Gantt would say, "That's getting pretty close to the rail." That every man over sixty-five years of

age is unfitted for jury duty is a most glaring blunder. As Mr. Malone puts it, the two United States senators from Tennessee, the present governor, and a host of the foremost men in the State are unfitted to serve as jurors. "These men could plead exemption, and the criminal could then accept, as a highly competent juror, as I have seen done in Shelby county, a specimen of humanity resembling a monkey, dwelling on the classic banks of Wolf river, with a flat boat for a house, and catching cat-fish to sell to negroes for a living, and not able to write his name. What a farce!" Yea, verily!

WHAT OF THE AFTERMATH?

Thoughtful men cannot but ask the question: What effect on society, on this community, will this verdict work out? Will it be to still lower the public sentiment in regard to mob law or will it be retrovertive in action and arouse what is now a dormant, if not a senile, sentiment that will be an assurance in the future to all classes of citizens of the protection of the law and an equal standing in the courts. The old Spartan maxim, "An injury to one is an injury to all," holds good to-day, though in the present lax and partial administration of the laws it is an anachronism. A healthy and robust public sentiment against mob law under any circumstances, would be a partial salve for the wound inflicted on Shelby county by the verdict in the Big Creek lynching case. For that verdict was an unfortunate miscarriage of justice, and while that lynching goes uncovered and its perpetrators unpunished, the people of this county must stand dumb before their accusers and close their lips when reviled and bitterly slandered. Just such outbreaks of the lawless and verdicts of juries are food for fattening the most virulent and vitriolic of the South's detractors. What harm do these enemies do us? That is the question of the southern man who is such only by chance of birth, who is so close to Darwin's missing link as to be capable only of holding down a chair in a Tennessee jury-box. But the business man knows the answer to that question. He has it come to him in such form as to be quickly learned and not easily forgotten. The intelligent, reading people of the South know full well how hurtful are these lynchings, and how costly they are in many ways. The world ought to know that the men in the South who commit these lawless deeds and who defend the work of a mob—save for the crime of rape—are not representatives of the intelligence, the brave manhood, the progressive spirit, the christianity, the love of fair play and the protection of the weak and defenceless that are characteristics of the Southern people. The aftermath then of that Big Creek and the other two lynchings in this community will depend on and take color from the class of citizens who are to determine and shape public

sentiment on the question of mob law. And that sentiment will determine whether the Augean stable is to be cleaned of its filth and incubi of suspicion and lack of loyalty to official oaths and the obligations imposed by success at the ballot-box.

WHAT IS THE REMEDY?

What is the remedy for this curse of mob law that is proving so rampant, ruinous and hurtful to the material and social progress of the South, especially? "The law is common-sense," said Judge Gary, before whom were tried the Haymarket anarchists in Chicago. True, in theory, but not as administered. But why not make it common-sense? Why not have speedy trials, a plugging up of so many loop-holes of escape, a learned judge, and not a figure-head, on the bench, able and brave prosecuting attorneys, intelligence in the jury box and incorruptible sheriffs? Why not return to the old paths and let honor, truth and virtue rule the courts and administer the laws? It is time to call a halt. The spirit of the lawless is sweeping over the land like a besom of destruction. It rides by day and night on the wings of the tornado of anarchy and it grows bolder and more defiant at every bloody carnival. Day after day the newspapers give record of the work of the mob. Judge Lynch is holding court all over the land and red and ghastly is the record he writes. Today he sits in Tennessee, tomorrow in Georgia, next day in Alabama, and then in Mississippi, Arkansas, Texas, Louisiana and all over the South. Now and then he crosses the Ohio to the north and opens his assizes. What shall we people of the South do to stay the hand of this reckless and hideous executioner? It is a serious question. We have fallen upon evil times and the heroic spirit of our fathers seems to have forsaken us. The accursed spirit of the "New South" is our inspiration and our bane. Respect for law, divine, paternal and civil has departed from the sons of the proudest and most noble ancestry that ever lived, and veneration for established rights and liberties has become a lost heritage. The stories of these lynchings travel fast and gather a blacker hue as they travel. They are used by the South's enemies to revile us and to set back the hour hand on the dial of our progress toward a richer heritage. For mob law only for one crime can there be any justification whatever. Its very life is anarchy and the utter destruction of the entire social fabric. It debauches the youth of the land and makes every man who is a party to it a red-handed criminal. The old Confederate soldier, type of the Old South, stands fiercely against this cowardly Demon, and for law and order and a just treatment of the humblest citizen of the land. Soon after the Big Creek lynching a reunion of old Confederate veterans took place in Tennessee. One of the speakers at that gathering was Rev. Dr. D. C. Kelley, who, during the

war, was colonel of a regiment of cavalry under Gen. N. B. Forrest, and as brave a soldier as ever fought beneath the Stars and Bars. In his speech Dr. Kelley said: "The best and strongest men love words of sympathy and applause when the work they have to do is a task on courage and patience alike, and I believe we could do nothing better here to-day than pass resolutions approving the course of Gov. Turney and Judge Cooper in regard to the Millington lynching. We, as old Confederates, must stop that one crime, lynching, if it costs the life of the last man in the South."

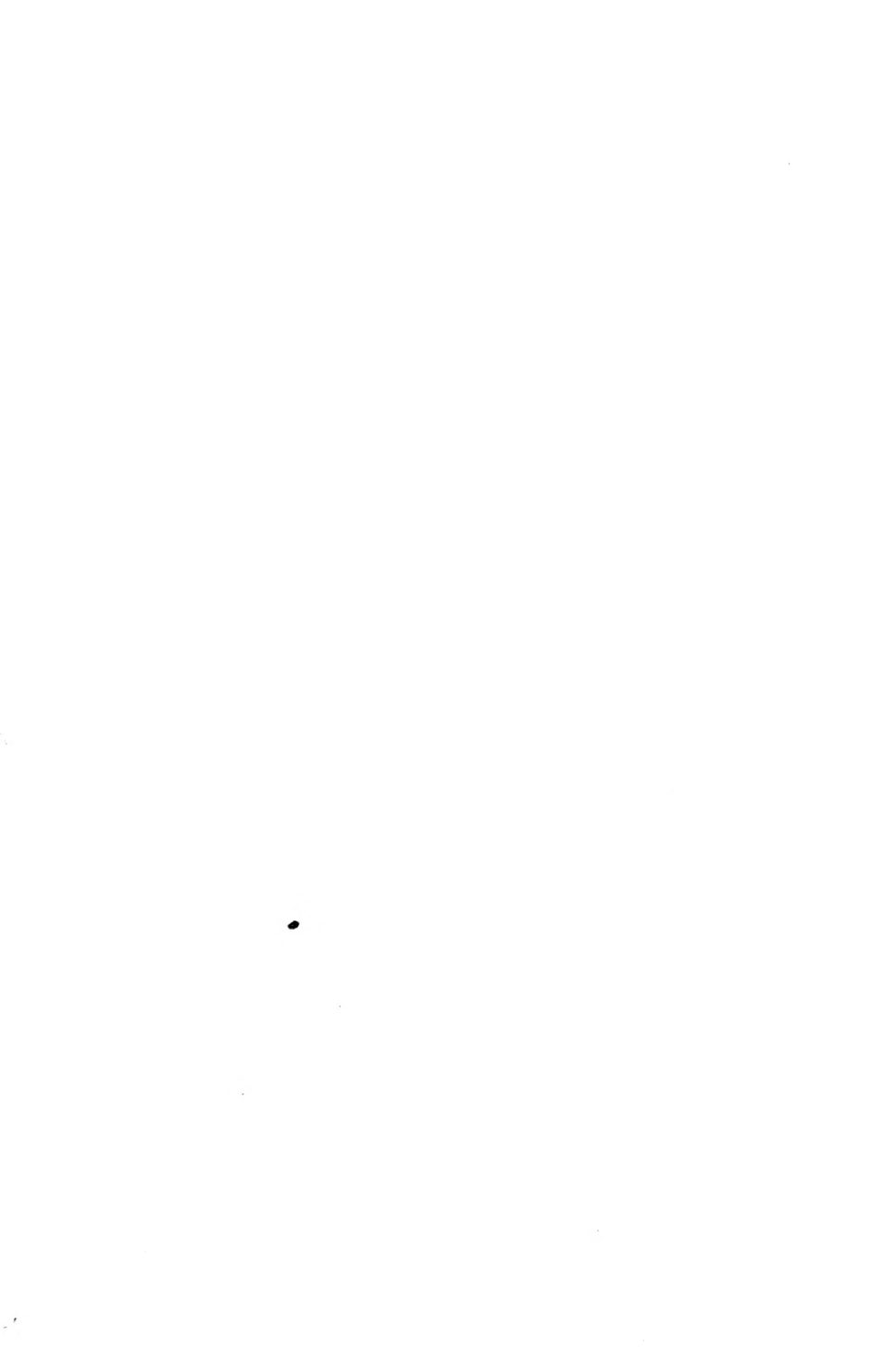
These are the words and this the sentiment of a brave and manly man. It should be the sentiment of every brave Southerner. It is the spirit of the blessed Old South speaking through a heroic and beloved son. With that sentiment there is no nexus of sympathy with lawlessness and crime. To that spirit there is a noble duty enjoined. It is to stay the rampant inroads of all the isms that have taken root in Southern soil since Lee sheathed his sword in honor at Appomattox, and from which have sprung so many Upas trees, poisoning the fairest and purest and noblest form of civilization and society the world ever possessed. The rule of the white man in the South does not, cannot, be founded and perpetuated on mob law. In honor he is bound to protect the negro and to stand as his guardian when guardianship is needed.

A WORD TO THE COLORED RACE.

There is one crime for which there can be nothing but death. That crime is rape. Here is what a leading Northern Republican editor says upon this subject: "It is much to be regretted that so many lynchings occur in the South; but it is far more to be regretted that there are so many occasions for them. If the negroes did not commit the atrocious crime for which this penalty is inflicted, then the whites would not be inflamed to summary vengeance. The violence begins when unbridled passion assaults a white woman in a way that is worse than death; and the perpetrator of the hellish deed has no right to complain when the law is executed upon him in a swift and merciless manner, according to the teachings of his own villainy. It is asserted, to be sure, that sometimes innocent negroes are hanged in these cases, but there is no definite and reliable testimony to that effect. As a rule, ample opportunity is given to the accused party to show, if he can that he is not guilty. There is always an identification of the criminal by the victim herself, when she escapes with her life, or there is other evidence equally positive and conclusive; and in a majority of cases confession precedes lynching. It would be better, unquestionably, if judicial formalities could be observed with regard to these offences; but there is something to be pardoned, nevertheless, to the peculiar indignation which they excite, and which is the expression, after all, of one of the most creditable impulses of human nature."

Ponder these wise words; stop these outrageous assaults on the wives and daughters of Southern white men; force the young and vicious element of your race to go to work; to be honest, sober and industrious; take counsel of your only true friends, the Southern white men, among whom your lot is cast, and the reign of mob law will be at an end. Learn of the old time darkies. They never commit hellish crimes; not one of them has ever been lynched.





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